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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

NIEYA POELLNITZ,

Defendant and Appellant.

E071295

(Super.Ct.No. 16CR022092)

OPINION

APPEAL from the Superior Court of San Bernardino County. Rodney A. Cortez,
Judge. Affirmed.

Nieya Poellnitz, in pro. per.; Christine M. Aros, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a plea agreement, defendant and appellant Nieya Poellnitz pled no contest to first degree burglary. (Pen. Code,¹ § 459, count 1.) In accordance with the agreement, the court placed her on probation for three years. She subsequently admitted to violating her probation. A trial court terminated her probation as unsuccessful and sentenced her to four years in state prison, with 432 days of custody credits.

Defendant filed a notice of appeal in propria persona. Appellate counsel subsequently filed an amended notice of appeal, on defendant's behalf, along with a request for certificate of probable cause, which the court denied. We affirm.

PROCEDURAL BACKGROUND

Defendant was charged by felony complaint with first degree burglary. (§ 459.) On June 7, 2016, pursuant to a plea agreement, she pled no contest to count 1. Before taking defendant's plea, the court confirmed with her that she discussed the constitutional rights she was waiving with her attorney, and that she understood the charge against her and the consequences of her plea. The parties stipulated that the police reports provided a factual basis for the plea. In accordance with the plea agreement, the court placed her on probation for a period of three years and ordered her to serve 45 days in weekend jail time. The court also ordered her to pay specified fines and fees, including a probation revocation fine of \$300, which was stayed pending successful completion of probation.

¹ All further statutory references will be to the Penal Code, unless otherwise noted.

On July 15, 2016, defendant requested to serve jail time as straight time, rather than on weekends. The court then ordered her to serve a 45-day straight sentence in county jail.

On August 17, 2016, defendant requested to withdraw her plea, and the court appointed counsel for a motion to withdraw her plea. On October 3, 2016, counsel filed a motion to vacate judgment and withdraw the plea. However, on October 21, 2016, defendant withdrew the motion.

On October 28, 2016, the court found that defendant had served her jail sentence and ordered all probation fines and fees to be converted to 25 days in county jail. On November 14, 2016, defendant was remanded into custody to serve 25 days “in lieu of all fines and fees.”

On December 22, 2016, the probation department filed a petition for revocation of probation, alleging that defendant had violated the probation conditions that she violate no law, cooperate and follow all directives of the probation officer, not use or possess any controlled substance, and not associate with persons known to be convicted felons.

On January 24, 2017, defendant admitted that she violated her probation by using marijuana, driving another probationer to the probation office, and being cited for driving under the influence. The court reinstated her probation, with the modification that she serve 365 days in custody and participate in the Inroads Program (Inroads). The parties agreed that she could request early release upon completion of Inroads.

On May 4, 2017, the court ordered defendant released from custody, since she successfully completed Inroads. The court ordered her to report to the probation department upon release.

On July 10, 2018, the probation department filed another petition for revocation of probation, alleging that defendant had violated the probation conditions that she violate no law and cooperate and follow all directives of the probation officer.

On August 7, 2018, against the advice of counsel, defendant indicated that she wanted to accept a four-year prison term and the dismissal of the new misdemeanor. She then admitted that she violated probation by not cooperating or following all directives of the probation officer. The court ordered probation to remain revoked and sentenced defendant to the middle term of four years in state prison, with 432 days of custody credits. The court also imposed the previously stayed \$300 probation revocation restitution fine. Defendant informed the court that she thought she paid her probation fees before, but the court replied that it was imposing “whatever might be outstanding,” including the previously stayed probation revocation fine. Defendant agreed.

On September 6, 2018, the court received a handwritten letter from defendant requesting to appeal her conviction.

On September 21, 2018, counsel filed an amended notice of appeal on behalf of defendant, based on the sentence or other matters not affecting the validity of the plea, and also challenging the validity of the plea. Counsel filed a request for certificate of probable cause, alleging that defendant wanted to “go back to trial” because she was

struggling with mental stress at the time of the plea, and she did not believe she committed burglary. The court denied the request.

ANALYSIS

After the notice of appeal was filed, this court appointed counsel to represent defendant. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, and identifying several potential arguable issues: (1) whether defendant's plea was constitutionally valid, and whether the issue was cognizable without a certificate of probable cause; (2) whether defendant's admission of a probation violation was valid; (3) whether probation should have been reinstated; and (4) whether the trial court erred in imposing the middle term.

Defendant was offered an opportunity to file a personal supplemental brief, which she has done. In a handwritten supplemental brief, defendant requests her felony conviction to be dismissed or modified to a lesser offense. She presents no arguments; rather, her letter is a continuous narrative. At the conclusion of the letter, she admits she "made a terrible mistake," had regrets, and wanted to change her life. Defendant has failed to actually raise a point or present any reasoned argument; thus, we will pass on her request without consideration. (*People v. Stanley* (1995) 10 Cal.4th 764, 793; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785.)

Defendant additionally claims that her custody credits were wrong by eight days and asks why she is being fined twice for the same thing, since her restitution was paid in

full by the conversion of jail time. However, the court granted the custody credits recommended in the probation officer's report, and defendant offers no evidence to support her dispute. With regard to the payment of restitution, the court explained that it was just imposing the \$300 probation revocation restitution fine, which it had previously stayed.

Under *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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McKINSTER
Acting P. J.

We concur:

MILLER
J.

RAPHAEL
J.